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American Lung Association  
Kansas & Greater Kansas  
City

February 13, 2020

Kansas House of Representatives  
Federal and State Affairs Committee  
RE: Testimony in Opposition to HB 2563

Chairman Barker,

The American Lung Association in the Kansas and Greater Kansas City thanks you for the opportunity to comment on the legislation before the committee today. While it is vital we pass statewide legislation that would protect the children and youth of Kansas from the harms of tobacco by increasing the minimum age of sale for all tobacco products to persons under age 21, the American Lung Association must oppose HB 2563 based on a key component of this legislation – the inadequate flavor ban which impacts only e-cigarette products and exempts menthol flavor from the prohibition.

Before I go into more detail regarding our opposition to the bill based on the weak flavor prohibition, there are elements of HB 2563 that the Lung Association strongly supports. We believe that our statewide Tobacco 21 law should be created to ensure that it will be effective, enforceable and include the products and flavors that children are using the most.

- HB 2563 includes electronic cigarettes and combustible materials, as well as all tobacco products. E-cigarettes are the most commonly used tobacco product among youth, and making sure Kansas T21 includes these products is essential in protecting children and youth.
- Provisions to help ensure the law is enforced, such as increasing the tobacco retail license fee to \$100, are significant. These funds go directly to enforcement and are much needed by local jurisdictions to ensure they have the resources they need to enforce the law.
- The Lung Association also applauds the increase in the number of controlled buys from one a year to two annually. Again, increasing funding for enforcement via increased tobacco retail fee is essential.
- HB 2563 decriminalizes youth by eliminating the youth penalties for purchase, use and possession. Penalizing children is not an effective strategy for reducing youth smoking; and some experts argue that PUP laws could actually detract from more effective enforcement measures and tobacco control efforts.<sup>2</sup>

*Please remember the American Lung Association in your will or trust.*

Unfortunately, there is a major flaw in HB 2563 in regards to how it addresses flavor. The Lung Association recommends that the flavor portion of HB 2563 be removed and a prohibition on all flavors for all tobacco products be addressed separately.

In short, all flavors need to be prohibited - with no exceptions. If we allow menthol flavor to remain on the market we are not adequately protecting Kansas children and youth from initiating use of tobacco products. Simply stated, youth smokers are more likely to use menthol cigarettes than any other age group. In fact, over half (54 percent) of youth smokers ages 12-17 use menthol cigarettes.<sup>1</sup>

If the intention of HB 2563 is to protect youth from tobacco addiction, all flavors – including menthol - must be prohibited. If HB 2563 were to be amended to remove the exemption of menthol flavor to a flavor ban on e-cigarettes, the Lung Association would view this as a good first step toward a comprehensive flavor prohibition that included all flavors for all tobacco products.

Without an amendment to HB 2563 to remove the menthol exemption, the American Lung Association remains opposed.

Sincerely,



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<sup>1</sup>CDC, Youth Risk Behavior Surveillance System, 2017.

<sup>2</sup>Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," Tobacco Control, 12(Suppl 1):i6-i13, 2003.